

Maine Parentage Act: Frequently Asked Questions

This brochure answers **basic** questions about Maine's Parentage Act. It is not a substitute for the help and advice of a lawyer. Talk to a lawyer if you have any questions. **Your rights as a parent may be at stake.**

What is Paternity?

Paternity is legal identification of a child's genetic father. When paternity is established, the child's genetic father becomes the child's legal father with all of the rights and responsibilities of a parent.

How is paternity of a child established?

There are three ways to establish paternity of a child:

1. by presumption (marriage), or
2. by voluntary acknowledgment, or
3. by court order.

Why is establishing paternity important?

Establishing paternity secures a father's rights as a parent. Also, children need and are entitled to:

- ✓ **financial support** from both parents. A court cannot order an alleged father to pay child support until paternity has been established.
- ✓ **benefits**, such as Social Security, insurance, inheritance and veteran's benefits, from both parents if they are available. A child might not be able to claim benefits from the father if paternity has not been established.
- ✓ **medical history**, so children know if they have inherited any special health problems.

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What forms are available if I decide to represent myself?

The following paternity-related forms and instructions are available through Data, Research, and Vital Statistics (DRVS) website at:

<http://www.maine.gov/dhhs/mecdc/public-health-systems/data-research/vital-records/forms/index.shtml>.

- Acknowledgment of Paternity (AOP)
- Denial of Parentage (DOP)
- Establishing Paternity by Court Order
- Challenging an Acknowledgment or Denial of Parentage
- Rescission of Acknowledgment or Denial of Parentage

Presumption of Paternity

When parents are married, the Maine law presumes that the spouse is the father/parent of the child. If the spouse is the father/parent, nothing else needs to be done. Paternity is established by presumption. Paternity is also presumed in several other ways.

When is a man presumed to be the father of a child?

A man is presumed to be the father of a child if:

- he was married to the child's mother when the child was born, **or**
- he was married to the child's mother any time during the 300 days before the child was born, **or**
- he was married to the child's mother before the birth of the child, even if the attempted marriage is or could be declared invalid within 300 days after termination by death, annulment, divorce or declaration of invalidity or after a decree of separation.

What if the presumed father is not the child's genetic father?

A presumed father is recognized by law as the child's legal father **unless**:

- he signs a Denial of Parentage (DOP) and the true father (and mother) complete and sign an Acknowledgment of Paternity (AOP) form **or**
- a court determines that he is not the legal father.

Acknowledgment of Paternity

When parents are not married, but everyone agrees on the identity of the child's father, paternity can be established by filing a signed Acknowledgment of Paternity with Data, Research, and Vital Statistics (DRVS).

What is an Acknowledgment of Paternity (AOP)?

An AOP is a legal form signed by a man and the woman who gave birth to the child who swear that the man is the genetic father of the child. *(If the child has a presumed father who is not the child's genetic father, the presumed father must sign the Denial of Parentage form.)*

When the completed AOP is filed with DRVS, the genetic father becomes the child's legal father with all the rights and duties of a parent. *(If a Denial of Parentage is included, the presumed father's rights and duties as a parent are relinquished.)*

****Note:** If the presumed father is not willing to sign the Denial of Parentage, the AOP form cannot be used to establish paternity. However, parents may go to court to obtain a court order to establish paternity.

How much does an Acknowledgment of Paternity (AOP) cost?

Filing an AOP with DRVS is free. However, there is a \$15.00 fee for a certified copy of the birth certificate. Each additional copy purchased at the same time is \$6.00.

When can an Acknowledgment of Paternity (AOP) be signed?

An AOP (and Denial of Parentage, if needed) can be signed after the child is born. If the child is an adult, a paternity case may be filed by the adult child. (See "Court Ordered Paternity" on page 5.)

Can an Acknowledgment of Paternity (AOP) be signed by someone who is under the age of 18?

Yes, an AOP may be signed by someone who is under the age of 18.

Are there any special requirements for an Acknowledgment of Paternity (AOP)?

Yes. For an AOP to be valid, it must be filed with Data, Research, and Vital Statistics (DRVS) and:

- be signed under penalty of perjury (this means you could be charged with a crime if you lie), and
- state whether or not the child has a presumed father, and if so, the presumed father's name, and
- state that the child does not already have an acknowledged father (this means no one else has signed an AOP claiming to be the child's father) and
- state that the child does not have an adjudicated father (this means no one has been named as the child's father in a court order).

What voids an Acknowledgment of Paternity (AOP)?

An AOP is void if it falsely denies the existence of a presumed, acknowledged or adjudicated father. Alterations, erasures, white-outs, cross-outs, write-overs, etc., will not be accepted and will invalidate the completed AOP form.

Where can I get the Acknowledgment of Paternity (AOP) form?

If the child was born in a hospital, parents may complete an AOP at the hospital where the child was born. The hospital will then file the AOP with DRVS.

Parents may also obtain the form and instructions from the Data, Research, and Vital Statistics website at: <http://www.maine.gov/dhhs/mecdc/public-health-systems/data-research/vital-records/forms/index.shtml>

Denial of Parentage

What is a Denial of Parentage (DOP)?

A DOP is a legal form signed by a presumed father to swear that he is not the child's genetic father. To be valid, the child's father and the woman giving birth to the child must also sign an Acknowledgment of Paternity (AOP) form. The AOP and DOP must be filed with Data, Research, and Vital Statistics.

Are there any special requirements for a Denial of Parentage (DOP)?

Yes. For a DOP to be valid it must be filed with DRVS and:

- be signed under penalty of perjury (this means you could be charged with a crime if you lie), and
- the man signing must not have previously signed an AOP (unless an AOP was successfully rescinded or challenged) and
- the man signing must not be named as the child's father in a court order.

Where can I get the Denial of Parentage (DOP) form?

If the child was born in a hospital, the presumed father may complete a DOP at the hospital where the child was born. The hospital will then file the DOP with DRVS.

The presumed father may also obtain the form and instructions from the Data, Research, and Vital Statistics website at: <http://www.maine.gov/dhhs/mecdc/public-health-systems/data-research/vital-records/forms/index.shtml>

How much does a Denial of Parentage (DOP) cost?

Filing a DOP with DRVS is free. However, there is a \$15.00 fee for a certified copy of the birth certificate. Each additional copy purchased at the same time is \$6.00.

Proceeding for Rescission of an Acknowledgment of Paternity (AOP) or Denial of Parentage (DOP)

Can I rescind or take back an Acknowledgment of Paternity (AOP) or Denial of Parentage (DOP)?

Parents who have filed an AOP or a presumed father who has filed a DOP may rescind or take back an AOP or DOP by filing a Rescission of Acknowledgment of Paternity form with Data, Research, and Vital Statistics. However, this form must be filed:

- before the 60th day after the effective date of the AOP or DOP (date the AOP and DOP is filed) and
- before a court order regarding the child is initiated.

What if I miss the deadline to rescind my Acknowledgment of Paternity (AOP) or Denial of Parentage (DOP)?

You may be able to challenge your AOP or DOP after the time period for rescission (described above) has expired. Read about challenging an AOP or DOP on the next page.

Where can I get the form to rescind my Acknowledgment of Paternity (AOP) or Denial of Parentage (DOP)?

The form and instructions may be obtained from the Data, Research, and Vital Statistics website at:

<http://www.maine.gov/dhhs/mecdc/public-health-systems/data-research/vital-records/forms/index.shtml>

How much does it cost to rescind my Acknowledgment of Paternity (AOP) or Denial of Parentage (DOP)?

There is no fee associated with the filing of a rescission of an AOP or DOP. However, those who sign an AOP or DOP must also be part of the rescission or removal of an AOP or DOP. All parties will be notified prior to amendment to the birth certificate.

If it's too late to rescind, can I still try to challenge my Acknowledgment of Paternity (AOP) or Denial of Parentage (DOP)?

You may be able to challenge your AOP or DOP after the time period for rescission (described on page 4) has expired, but only if:

- you signed the AOP or DOP based on fraud, duress or material mistake of fact and
- you may file a petition to challenge the AOP or DOP with a court that has personal jurisdiction over you. A final order from the court must be obtained to amend the child's birth certificate.

What forms can I use to challenge my Acknowledgment of Paternity (AOP) or Denial of Parentage (DOP)?

A proceeding to challenge an AOP or DOP must be made through a court that has jurisdiction over you.

In most cases, a court that has jurisdiction is in the county or division in which:

- the child resides or is present, or
- the parent or intended parent resides, or
- the person challenging an AOP or DOP resides or is present if the child does not reside in this State, or
- the probate court of the parent or alleged parent's estate has been commenced or
- a child protection proceeding with respect to the child has been commenced.

Contact the court that has jurisdiction over you or the child to obtain the necessary forms.

Can parents who use a surrogate or assisted reproduction get their names on the child's birth record without going to court?

Yes, parents who use a surrogate or assisted reproduction may be named on the child's birth certificate by presenting Data, Research, and Vital Statistics with the following:

- ✓ an attested copy of the written agreement signed by the woman who agrees to carry a child and the intended parent or parents, or
- ✓ a completed and signed consent form by each intended parent of a child born through assisted reproduction.

The attested copy of the written gestational carrier agreement or the signed consent form completed by the intended parents must be presented to DRVS *prior* to the filing and registration of the child's birth certificate. If the birth certificate has already been registered with DRVS, a court order is required to seal the record from the public and create a new one containing the intended parents' names.

Where can I get the consent form if I intend to become a parent of a child born through assisted reproduction?

The form and instructions may be obtained from the Data, Research, and Vital Statistics website at: <http://www.maine.gov/dhhs/mecdc/public-health-systems/data-research/vital-records/forms/index.shtml>

How much does it cost to file an attested copy of the written gestational carrier agreement or the signed consent form with DRVS?

Filing an attested copy of the written agreement or the signed consent form with DRVS is free. However, there is a \$15.00 fee for a certified copy of the birth certificate. Each additional copy purchased at the same time is \$6.00.

Court Ordered Paternity (Adjudication of Parentage)

Paternity of a child can also be established by a court. A parent or other authorized representative of the child may ask the court for an order establishing paternity of a child by filing a proceeding to adjudicate parentage of the child (also called a court determination).

Who can file a paternity case?

A paternity case may only be filed by the following individuals or entities:

- ✓ the child's mother, or
- ✓ a man who thinks he is the genetic father, or
- ✓ a man presumed to be the father, asking the court to order that he is not the father, or
- ✓ the adult child, or
- ✓ a representative authorized by law to act for an individual who would otherwise be entitled to request a proceeding but who is deceased, incapacitated or a minor, or
- ✓ a person who is the intended parent in an approved gestational carrier agreement (agreement for assisted reproduction).

The Department of Health and Human Services or an adoption agency may also file a court case to establish paternity of a child.

What can the court order in a paternity case include?

The court order in a paternity case can:

- order that an alleged father is the legal father of the child;
- order that an alleged or presumed father is not the legal father of the child;

- order custody, visitation, child support and medical support for the child;
- order retroactive child support (support that dates back to the child's birth) and prenatal medical expenses;
- change the child's name;
- order Data, Research, and Vital Statistics to issue an amended birth certificate for the child;
- determine that a child has more than two parents and/or
- order one or both parties pay court costs, genetic testing fees, attorney fees or travel expenses.

QUESTIONS

If any questions arise that are not covered in this brochure, please feel free to contact this office at:

Maine Center for Disease Control and Prevention
Office of Data, Research, and Vital Statistics
220 Capitol Street
11 State House Station
Augusta, Maine 04333-0011
(207) 287-3771

Words to Know

Alleged Father means a man who claims, or is claimed to be the genetic father or possible genetic father of the child.

Presumed Father means a man who:

- ✓ was married to the child's mother when the child was born, or
- ✓ was married any time during the 300 days before the child was born, or
- ✓ was married to the child's mother before the birth of the child, even if the attempted marriage is or could be declared invalid within 300 days after termination by death, annulment, divorce or declaration of invalidity or after a decree of separation.

Acknowledged Father means a man who signed a valid Acknowledgment of Paternity (AOP) form claiming to be the genetic father of the child. To be valid, the AOP must also be signed by the child's mother (and presumed father, if applicable) and filed with Data, Research, and Vital Statistics.

Adjudicated Father means a man named as the father of a child in a court order.

Acknowledgment of Paternity (AOP) means a legal form signed by a child's mother and genetic father to establish paternity of the child. When the form is filed with DRVS, the genetic father becomes the child's legal father.

Denial of Parentage (DOP) means a legal form signed by a presumed father to give up paternity by claiming he is not the child's genetic father. To be valid, the child's father and mother must also complete and sign an AOP.

Gestational Carrier Agreement means a written agreement for assisted reproduction between a woman who agrees to carry a child and the intended parent or parents.

Parentage by Assisted Reproduction means a woman agrees to carry an embryo with the intent that the child will be raised by another person or couple.

Vital Statistics means the Maine Center for Disease Control and Prevention, Data, Research, and Vital Statistics office.

District Courts in Maine

Augusta	(207) 213-2800
Bangor	(207) 561-2300
Belfast	(207) 338-3107
Biddeford	(207) 283-1147
Bridgton	(207) 647-3535
Calais	(207) 454-2055
Caribou	(207) 493-3144
Dover-Foxcroft	(207) 564-2240
Ellsworth	(207) 667-7141
Farmington	(207) 778-2119
Fort Kent	(207) 834-5003
Houlton	(207) 532-2147
Lewiston	(207) 795-4800
Lincoln	(207) 794-8512
Machias	(207) 255-3044
Madawaska	(207) 728-4700
Millinocket	(207) 723-4786
Newport	(207) 368-5778
Portland	(207) 822-4200
Presque Isle	(207) 764-2055
Rockland	(207) 596-2240
Rumford	(207) 364-7171
Skowhegan	(207) 474-9518
South Paris	(207) 743-8942
Springvale	(207) 459-1400
Waterville	(207) 873-2103
West Bath	(207) 442-0200
Wiscasset	(207) 882-6363
York	(207) 363-1230

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To order additional copies of this publication or if you have questions about the content, please call:

Maine CDC, Data, Research, and Vital Statistics at 207-287-3771. "TTY users call Maine relay 711".